three lives. There is an application to determine the validity of the ultimate gift over. *Held*, that it is valid and accelerated. *In re McQueen's Will*, 163 N. Y. Supp. 287.

In the principal case the direction to pay "after the death" of the life tenant, literally construed, would make the gift over contingent upon the survival of the legatees. But this phrase has become a common one to introduce vested remainders. *Napper* v. *Sanders*, Hut. 118. See LEAKE, PROPERTY IN LAND, 2 ed., 245. In general where a gift is made by a direction to divide and pay at a future time, the gift is considered contingent. See *Fulton Trust Co.* v. *Phillips*, 218 N. Y. 573, 583, 113 N. E. 558, 560. But where, as in the principal case, the postponement is wholly for the benefit of the estate in order to let in intervening life estates, the deferring of payment does not prevent the vesting of the legacy. *Packham* v. *Gregory*, 4 Hare 396; *Evans* v. *Scott*, 1 H. L. Cas. 43, 57; *Fuller* v. *Winthrop*, 85 Mass. 51, 60. In the principal case there is no gift over, if the remainderman fails to survive the life tenant. Hence construing the bequest as contingent would result in a partial intestacy, obviously contrary to the purpose of a residuary clause. Thus at common law, the remainder in the principal case would be vested. And under the New York statutes, it is clear that the legatees have a vested interest. See 4 N. Y. CONSOL. LAWS 4164, 4935. England holds that, where there is a vested estate expectant upon a remote gift and this vested estate is a life estate, it is void. *Beard* v. *Westcott*, 5 B. & A. 801. See MARSDEN, RULE AGAINST PERPETUITIES, 288. The testator is held to intend that if part fails, all should fail. See *Monypenny* v. *Dering*, 2 De G., M. & G. 145, 182. The intimation in this country is that otherwise valid gifts of whatever dignity are good, unless to allow them to stand would really involve making a new will for the testator. See *Barrett* v. *Barrett*, 255 Ill. 332, 338, 99 N. E. 625, 627. It is submitted that the valid limitations should be entirely unaffected by the void. See GRAY, RULE AGAINST PERPETUITIES, 3 ed., § 252 *et seq.*; 1 JARMAN, WILLS, 6 ed., 352; LEWIS, LAW OF PERPETUITY, 661; 29 HARV. L. REV. 341. It seems proper, therefore, to hold the ultimate remainder in the principal case good, especially since there is nothing in the will to show any intent of the testator to the contrary. And payment of the valid bequest should be accelerated since a vested remainder is, by definition, ready to take effect whenever and however the preceding estate terminates. *Cf. Greet* v. *Greet*, 5 Beav. 123; CHALLIS, REAL PROPERTY, 2 ed., 179.

STATUTES — STATUTORY PRINCIPLES IN THE COMMON LAW. — The steamship *Amerika* negligently ran into and sank a submarine of the English navy. The English government sues, among other things, for the pensions due the drowned seamen. Lord Campbell's Act and the English Workmen's Compensation Act have allowed actions for death in many cases but not specifically for the present situation. *Held*, that there can be no recovery for death unless the case falls within the express language of the statutes. *Admiralty Commissioners* v. *S. S. Amerika*, [1917] A. C. 38.

For a discussion of the principles involved, see NOTES, p. 742.

TRIAL — PROCEEDINGS IN CAMERA — RIGHT OF COURT MARTIAL TO HEAR CRIMINAL CASE IN CAMERA. — An Irish rebel was tried at a court martial. The trial was held in camera, because it was feared that admission of the public might result in disturbances or intimidation of the witnesses. Rule of Procedure 119 *c* provides that hearings must be held with open doors. A writ of *habeas corpus* is brought on the ground that the court had no jurisdiction to try the case. *Held*, that the writ be dismissed. *King* v. *Governor of Lewes Prison*, 61 Sol. J. 294.

It is the immemorial usage of the common law to try all prisoners in open court, to which spectators are admitted. 1 BISHOP, CRIM. PROC., § 957. And

it is no doubt owing to the prevalence of this usage and to the habits of thought resulting therefrom that there is such a dearth of judicial decisions upon the question of the principal case. But while the accused has the right to a public trial, the court has the power in proper cases to put a reasonable limit to the number of persons that may be admitted to the courtroom and to exclude those whose presence and conduct tend to interfere with the due and orderly progress of the trial. *People* v. *Swafford*, 65 Cal. 223, 3 Pac. 809; *State* v. *Brooks*, 92 Mo. 542, 5 S. W. 257. See COOLEY, CONSTITUTIONAL LIMITATIONS, 6 ed., 379. And the right of a court to try a case with closed doors has been recognized in a limited class of cases; dealing with lunacy, wards of the court, and secret processes. *Ogle* v. *Brandling*, 2 Russ. & M. 688; *Mellor* v. *Thompson*, 31 Ch. D. 55. But this power has been strictly limited to cases where it would not be possible to administer justice in open court. See *Scott* v. *Scott*, [1913] A. C. 417, 445; 27 HARV. L. REV. 88. In the United States the constitutional provision for a speedy and public trial has been very strictly enforced. *People* v. *Murray*, 89 Mich. 276, 50 N. W. 995; *People* v. *Hartman*, 103 Cal. 242, 37 Pac. 153. The principal case seems to fall clearly within the exception as laid down in *Scott* v. *Scott*, since a public hearing would have endangered the administration of justice, and the English rules of courts martial expressly provide that trials may be held with closed doors. MANUAL FOR COURTS MARTIAL FOR 1917, § 92.

WILLS — CONSTRUCTION — GIFT TO A CLASS ON A CONTINGENCY: CONTINGENCY NOT IMPORTED INTO DETERMINATION OF THE CLASS. — A will bequeathed a fund to the testator's daughter for life, with the provision that upon her death "leaving issue her surviving" her share should be divided between "the issue" of the said daughter on their severally attaining their respective ages of twenty-one. There was a gift over if the daughter died without leaving issue surviving her. The daughter died, predeceased by children who had attained twenty-one, and survived by others who also attained twenty-one. The question was whether the representatives of the deceased children took. *Held*, that they did. *In re Walker, Dunkerly* v. *Hewerdine*, [1917] 1 Ch. 38.

As a general rule of the construction of wills, if there is a gift to a class on a contingency, the time of the happening of the contingency is not imported into the determination of the class. *Hickling* v. *Fair*, [1899] A. C. 15. See THEOBALD, WILLS, 7 ed., 593; 2 JARMAN, WILLS, 6 ed., 1390. So, if a gift is made to children who reach twenty-one on the contingency that the parent die leaving issue her surviving, and the contingency occurs, all of the children who reach twenty-one at any time will take, and not those only who survived. *Boulton* v. *Beard*, 3 D. M. & G. 608. The suggestion has been made that the rule is inapplicable where there was a gift over on failure of the contingency. See THEOBALD, WILLS, 7 ed., 593. Thus, where in the above case it is further provided that, if the parent die leaving no issue surviving, there will be a gift over, and the parent dies leaving issue, only those children who survive would take. See *Wilson* v. *Mount*, 19 Beav. 292. No reason appears for such a limitation on the rule: the gift over merely provides against a possible intestacy. So the principal case seems right in holding that here, too, all the children who fall within the primary meaning of the words describing the class shall take, and not only those who survive. *In re Orlebar's Settlement Trusts*, L. R. 20 Eq. 711. The principal interest in the case lies in the good illustration which it affords of the ease with which the fixed English rules of general application solve difficult questions of construction in wills in which the testator expressed no intention with regard to the precise event which actually happened. For a full treatment of this matter, see 30 HARV. L. REV. 372.